

### 13 KAR 1:020. Private college licensing.

RELATES TO: KRS 13B.005-13B.170, 164.020(23), 164.945, 164.946, 164.947, 164.992, 165A.320, 20 U.S.C. 1001 et. seq.

STATUTORY AUTHORITY: KRS 164.020(38), 164.947(1), (2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 164.947(1) requires the Council on Postsecondary Education to promulgate an administrative regulation to establish the procedures for the licensing of colleges as defined in KRS 164.945. KRS 164.947 provides that religious instruction or training shall not be restricted. This administrative regulation establishes the private college licensing requirements and the requirements for religious in-state colleges to apply for an exemption to those licensing requirements.

#### Section 1. Definitions.

- (1) "Accredited" means the approval of an accrediting agency.
- (2) "Accrediting agency" means a national or regional agency which evaluates colleges and is recognized by the United States Department of Education, the Council on Higher Education Accreditation, or the Council on Postsecondary Education.
- (3) "Agent" means any person employed by a college to act as a solicitor, broker, or independent contractor to procure students for the college by solicitation in any form made at any place other than the main campus of the college.
- (4) "College" is defined by KRS 164.945(1).
- (5) "Degree" is defined by KRS 164.945(2).
- (6) "Diploma" is defined by KRS 164.946(3).
- (7) "In-state college" means a college that is chartered by, organized within, and has its principal location in Kentucky.
- (8) "Net tuition and fees" means the total of tuition and mandatory fee revenue less institutional scholarships and fellowships.
- (9) "Operating or soliciting" means having a physical presence within Kentucky and includes:
  - (a) An instructional or administrative site within Kentucky whether owned, leased, rented, or provided without charge;
  - (b) Instruction, whether theory or clinical, originating from or delivered within Kentucky utilizing teachers, trainers, counselors, advisors, sponsors, or mentors;
  - (c) An agent, recruiter, in-state liaison personnel, institution, or business located in Kentucky that advises, promotes, or solicits for enrollment, credit, or award of an educational or occupational credential;
  - (d) An articulation agreement with a Kentucky licensed college or state-supported institution; or
  - (e) Advertising, promotional material, or public solicitation in any form that targets Kentucky residents through distribution or advertising in the state.
- (10) "Out-of-state college" means a college that is chartered, organized, or has its principal location outside of Kentucky.
- (11) "President" means the president of the Council on Postsecondary Education.
- (12) "Unearned tuition" means the excess of cumulative collections of tuition and other instructional charges over the cumulative amount of earned tuition and other institutional charges prior to the first date of refund in accordance with the college's refund policy.
- (13) "Unrestricted cash" means any cash or cash equivalents held by a college which are available to cover payments to students for any unearned tuition.

#### Section 2. General Requirements.

- (1)(a) Except as provided in paragraph (b) of this subsection or subsection (7) of this section,

an in-state or out-of-state college that is operating or soliciting in Kentucky shall be licensed.

(b) If a college is operating or soliciting in Kentucky solely for on-ground instruction at a location outside of Kentucky in which students leave Kentucky to attend, licensure shall not be required.

(2)(a) An out-of-state college shall be licensed separately for each instructional site in Kentucky.

(b) Except as provided in paragraph (c) of this subsection, an out-of-state college that is operating or soliciting using on-line instruction to Kentucky residents shall be considered to have an online campus which shall be licensed separately as an instructional site.

(c) Licensure shall not be required for an out-of-state college if the college:

1. Is only operating and soliciting under Section 1(9)(b) of this administrative regulation solely due to a faculty member residing in Kentucky and providing online instruction to Kentucky students; and

2. Has less than one (1) percent of its faculty members residing in Kentucky.

(3) A college awarding a certificate, diploma, associate degree, baccalaureate degree, master's degree, doctoral degree, or other degree, whether the degree is earned or honorary, shall be licensed. If a college's program is also required to be licensed or approved by another state agency as well as the Council on Postsecondary Education, the president shall attempt to coordinate the licensing function with that agency.

(4) A college shall offer only those programs, courses, and degrees, including honorary degrees, specifically authorized in the license.

(5) If a college ceases offering a licensed program, course, or degree, the college shall notify the president in writing and request that the program, course, or degree be removed from the college's license.

(6) Providing false or misleading information shall be grounds for denial of a license, or suspension or revocation of an existing license.

(7) A religious in-state college may operate or solicit in Kentucky if the college submits to the council an Application for Religious In-State College Letter of Exemption per KRS 164.947(2). The institution shall submit an application each year by the anniversary of its initial submission date. As part of the application, the institution shall verify compliance with the requirements established in this subsection.

(a) The institution shall be nonprofit, owned, maintained, and controlled by a church or religious organization which is exempt from property taxation under the laws of Kentucky.

(b) The name of the institution shall include a religious modifier or the name of a religious patriarch, saint, person, or symbol of the church.

(c) The institution shall offer only educational programs that prepare students for religious vocations as ministers or laypersons in the categories of ministry, counseling, theology, religious education, administration, religious music, religious fine arts, media communications, or social work.

(d) The titles of degrees issued by the institution shall be distinguished from secular degree titles by including a religious modifier that:

1. Immediately precedes, or is included within, any degree title, including an Associate of Arts, Associate of Science, Bachelor of Arts, Bachelor of Science, Master of Arts, Master of Science, Advanced Practice Doctorate, Doctor of Philosophy, or Doctor of Education degree; and

2. Is placed on the title line of the degree, on the transcript, and wherever the title of the degree appears in official school documents or publications.

(e) The duration of all degree programs offered by the institution shall be consistent with Section 8(8)(b) of this administrative regulation.

(f) The institution shall comply with the truth in advertising requirements established in Section 8(11) of this administrative regulation.

(g)1. The institution shall disclose to each prospective student:

- a. A statement of the purpose of the institution, its educational programs, and curricula;
  - b. A description of its physical facilities;
  - c. Its status regarding licensure;
  - d. Its fee schedule and policies regarding retaining student fees if a student withdraws;
  - e. Its refund policy on tuition and other instructional charges; and
  - f. A statement regarding the transferability of credits to and from other institutions.
2. The institution shall make the disclosures required by subparagraph 1. of this paragraph in writing at least one (1) week prior to enrollment or collection of any tuition from the prospective student. The required disclosures may be made in the institution's current catalog.
- (h) The institution shall not seek to be eligible for state or federal financial aid.

### Section 3. Licensure Application Procedures.

- (1) An application for a license shall be submitted on the form entitled:
  - (a) Application for Licensure as an In-State, Non-Public Institution to Operate in the Commonwealth of Kentucky Pursuant to 13 KAR 1:020, if the applicant is an in-state college; or
  - (b) Application for Licensure as an Out-of-State Institution to Operate in the Commonwealth of Kentucky Pursuant to 13 KAR 1:020, if the applicant is an out-of-state college.
- (2) An application shall be accompanied by a copy of the following:
  - (a) College charter;
  - (b) College catalog;
  - (c) College constitution and bylaws;
  - (d) Student enrollment application;
  - (e) Student contract or agreement;
  - (f)1. Documentation of accreditation, licensure, or approval by appropriate state, federal, and accrediting agencies; and
  - 2. Disclosure of any prior loss or denial of:
    - a. Accreditation with the dates and reason for the loss or denial; or
    - b. Licensure or approval by an agency in this state or another state with the dates and reason for the loss or denial;
- (g) Disclosure of any former names of the college with the dates each former name was used.

### Section 4. Site Visits.

- (1) Within ninety (90) working days of the receipt of a full and complete application for a license, a supplementary application, or Application for Annual Maintenance of License or for Renewal of License Pursuant to 13 KAR 1:020, the president may conduct, or may have conducted, a site visit. Personnel conducting the site visit shall possess the expertise appropriate to the type of college to be visited. The purpose of a site visit shall be to make an assessment of a college using the standards for licensure as set forth in Section 8 of this administrative regulation.
- (2) The president may conduct, or may have conducted, an announced or unannounced site visit of a licensed college during reasonable business hours to inspect the files, facilities, and equipment as well as conduct interviews to determine the college's compliance with this administrative regulation and KRS 164.945, 164.946, and 164.947.
- (3) Failure to provide full access to the college's files, facilities, and equipment or prevention of interviews shall be grounds for denial of a license, or suspension or revocation of an existing license.
- (4) Cost of site visits.
  - (a) Costs connected with a site visit and subsequent visits as may be necessary, such as travel, meals, lodging, and consultant honoraria, shall be paid by the college.
  - (b) The estimated cost of the site visit shall be paid by the college prior to the site visit.

(c) The final settlement regarding actual expenses incurred shall be paid by the college no later than thirty (30) days after receipt of the invoice.

(d) Failure to pay these costs shall be grounds for denial of a license, or suspension or revocation of an existing license.

#### Section 5. Action on Licensure Application.

(1) Within ninety (90) working days of the completion of the site visit, or within sixty (60) working days of the submission of a complete licensure application if a site visit is not conducted, the president shall do one (1) of the following:

(a) Issue a license for a period of no less than one (1) year, nor more than two (2) years;

(b) Deny the application for a license;

(c) Notify the applicant college of deficiencies which shall be corrected before a license is issued; or

(d) Issue a conditional license in accordance with subsection (3) of this section if the college has:

1. Not met all of the standards for licensure when the application is filed; and

2. Provided a written business plan to the president demonstrating it will meet the standards for licensure within a period not to exceed two (2) years.

(2) If an institution fails to respond in writing to an official notification of deficiency within sixty (60) working days, it shall submit a new application and fee, as required by Section 15 of this administrative regulation, to apply for licensure.

(3) A conditional license shall not exceed a period of two (2) years and shall include the conditions the college shall meet in order for the college to progress toward and eventually meet the standards for licensure, including when the college shall report progress to the president and when the college shall be required to have satisfied all the conditions.

(a) The college's failure to satisfy the conditions within the specified timeframe shall:

1. Result in automatic revocation of the conditional license; or

2. Result in an extension of the conditional license based on a determination by the president that the college is making progress in satisfying the conditions in response to the college's written request for an extension with supporting justification.

(b) If the college satisfies all the conditions with the timeframe specified, the president shall issue a license in accordance with subsection (1)(a) of this section.

#### Section 6. Supplementary Application Procedures.

(1)(a) A Supplementary Application for Change of Name of Institution Pursuant to 13 KAR 1:020 shall be submitted to the council at least ninety (90) days prior to the effective date of a change in the name of a college.

(b) A Supplementary Application for Change of Location of Principal Location of a College or Location of a Licensed Instructional Site in Kentucky Pursuant to 13 KAR 1:020 shall be submitted to the council at least ninety (90) days prior to the effective date of a change in the principal location of a college or the location of a licensed instructional site in Kentucky.

(c) A Supplementary Application for Change of Ownership or Governance Pursuant to 13 KAR 1:020 shall be submitted to the council at least ninety (90) days prior to the effective date of a change in ownership or governance of a college.

(d) An out-of-state college shall submit a Supplementary Application to Operate as an Out-of-State Institution in the Commonwealth of Kentucky Pursuant to 13 KAR 1:020 at least ninety (90) days prior to implementation of a change to offer an additional certificate, diploma, or degree program, major, or other concentration or specialty at an instructional site.

(e) A Supplementary Application to Operate as an In-State Nonpublic Institution in the Com-

monwealth of Kentucky Pursuant to 13 KAR 1:020 shall be submitted by an in-state college at least ninety (90) days prior to the effective date of:

1. A change to offer an additional certificate, diploma, or degree program, major, or other concentration or specialty at the main campus; or

2. The establishment of an instructional site away from the main campus of an in-state college for the purpose of offering courses for college credit which comprise at least fifty (50) percent of the course requirements for a degree program.

(f) A college shall submit a Supplementary Application for Administrative Site, Recruitment Office, or Advising Center Pursuant to 13 KAR 1:020 at least ninety (90) days prior to the establishment of an administrative site, recruitment office, or advising center in Kentucky, or the change of location of a licensed administrative site, recruitment office, or advising center in Kentucky, if the site, office, or center is not part of a licensed instructional site or proposed instructional site for which the college is seeking licensure.

(g) A college shall submit a Supplementary Application for Notification of Change in Accreditation or Licensure Status Pursuant to 13 KAR 1:020 within thirty (30) days following action by an accrediting agency or another state licensing agency which results in:

1. A college being placed in a probationary status;
2. A college losing accreditation or licensure; or
3. A college being denied accreditation or licensure.

(2) A site visit may be conducted as part of the supplementary application process in accordance with Section 4 of this administrative regulation.

(3) Failure to submit a complete and accurate supplementary application, if required, shall be sufficient cause for denial of a license, or suspension or revocation of an existing license. The president shall notify the college by registered mail, return receipt, of the denial, suspension, or revocation of the college's license.

#### Section 7. Action on Supplementary Applications.

(1) Within sixty (60) working days of the submission of a complete supplementary application if a site visit is not conducted, or within ninety (90) working days of the completion of a site visit, the president shall do one (1) of the following:

(a) Approve the supplementary application and amend the current license without changing the renewal date;

(b) Deny the supplementary application without amendment to the college's license;

(c) Suspend or revoke the college's license;

(d) Notify the applicant college of deficiencies which shall be corrected before the supplementary application is approved and the license is amended; or

(e) Issue a conditional license in accordance with subsection (3) of this section if the college has:

1. Not met all of the standards for licensure when the application is filed; and

2. Provided a written business plan to the president demonstrating it will meet the standards for licensure within a period not to exceed two (2) years.

(2) If an institution fails to respond in writing to an official notification of deficiency within sixty (60) working days, it shall submit a new application to apply for licensure.

(3) A conditional license shall not exceed a period of two (2) years and shall include the conditions the college shall meet in order for the college to progress toward and eventually meet the standards for licensure, including when the college shall report progress to the president and when the college shall be required to have satisfied all the conditions.

(a) The college's failure to satisfy the conditions within the specified timeframe shall:

1. Result in automatic revocation of the conditional license; or

2. Result in an extension of the conditional license based on a determination by the president that the college is making progress in satisfying the conditions in response to the college's written request for an extension with supporting justification.

(b) If the college satisfies all the conditions with the timeframe specified, the president shall amend the current license in accordance with subsection (1)(a) of this section.

Section 8. Standards for Licensure. A college shall meet the requirements and standards established in this section in order to be licensed.

(1) Financial requirements. The college shall adhere to generally accepted accounting practices and present evidence of financial stability, including the following:

(a) Financial statements including:

1. A statement of financial position of unrestricted net assets and liabilities, including foundation and trust agreements;

2. An audit report prepared by an independent certified public accountant for each corporation of the college; and

3. If available, audit reports for the past three (3) years;

(b) The name of a bank or other financial institution used by the college as a reference;

(c) A statement from the Kentucky Higher Education Assistance Authority related to programs administered by that agency and from the U.S. Department of Education related to programs administered by that department that the college is in good standing; and

(d) An annual operating budget for the college.

(2) Agents. A college shall be responsible for the actions of its agents if acting on behalf of the college.

(3) Guarantee of refund of unearned tuition. A college shall guarantee the refund of any unearned tuition held by the college as established in this subsection.

(a) Except as provided in paragraph (d) of this subsection, an in-state college shall:

1. Secure and maintain a surety bond equal to or in excess of the largest amount of unearned tuition held by the college at any time during the most recently completed fiscal year, executed by a surety company qualified and authorized to do business in Kentucky, and made payable to the Council on Postsecondary Education;

2. Maintain an unrestricted cash reserve equal to or in excess of the largest amount of unearned tuition held by the college at any time during the most recently completed fiscal year; or

3. Provide a letter of credit equal to or in excess of the largest amount of unearned tuition held by the college at any time during the most recently completed fiscal year.

(b) An out-of-state college shall secure and maintain a surety bond:

1. That is:

a. Equal to or in excess of the largest amount of unearned tuition held by the college at any time during the most recently completed fiscal year; and

b. At least \$10,000;

2. Executed by a surety company qualified and authorized to do business in Kentucky; and

3. Made payable to the Council on Postsecondary Education.

(c) A college applying for a license for the first time shall estimate the amount of unearned tuition based on projected enrollment and tuition and other instructional charges.

(d) An in-state college licensed continuously by the council for:

1. Five (5) to ten (10) years shall maintain coverage by surety bond, letter of credit, or unrestricted cash reserve for ten (10) percent of its annual total net tuition and fees collected by the college in its most recently completed fiscal year; or

2. Ten (10) years or more shall maintain coverage by surety bond, letter of credit, or unrestricted cash reserve for five (5) percent of its annual total net tuition and fees collected by the college

in its most recently completed fiscal year.

(e) A college shall provide a letter from an independent certified public accountant confirming that the college is in compliance with this subsection.

(4) Notice required.

(a) If a surety bond is terminated, a college shall notify the president and the license shall automatically expire with the bond unless a replacement bond is provided without a lapse in bonding.

(b) An in-state college using an unrestricted cash reserve or letter of credit to satisfy the provisions of subsection (3) of this section shall notify the president if the unrestricted cash reserve or letter of credit falls below the required amount, and the college shall obtain a surety bond for the required amount.

(c) A college shall notify the president within ten (10) days of the college receiving written notice from the U.S. Department of Education of placement on heightened cash monitoring status or calculation of college's financial responsibility composite score at below 1.0. If an in-state college is using unrestricted cash reserve to satisfy subsection (3) of this section, it shall within thirty (30) days of either event:

1. Obtain a surety bond or letter of credit in the required amount until the college is satisfactorily removed from heightened cash monitoring status by the U.S. Department of Education or the college's financial responsibility composite score is 1.0 or higher; or

2. Transfer the unrestricted cash reserve to the Council in the required amount to be held on behalf of the college, which the Council shall return once the college is satisfactorily removed from heightened cash monitoring status by the U.S. Department of Education, the college's financial responsibility composite score is 1.0 or higher, or once all unearned tuition claims have been paid.

(d) Upon notice to the college, the Council may call in a letter of credit upon any valid claim of unearned tuition in the amount of the claim, or for the full amount of the letter if necessary to protect access to those funds. If the full amount of the letter is called, the Council shall return any funds remaining after claims have been paid, either to the bank or the college, as appropriate, after one (1) year from the date of closure of the college.

(e) A college shall notify the president within ten (10) days of the college receiving notice from an accrediting agency or any state or federal agency that the college is the subject of any investigative action or disciplinary matter with the accrediting agency or state or federal agency.

(5) Personnel requirements.

(a) The college shall furnish information regarding the administrative officers, the directors, the owners, and the faculty, as required by the application form.

(b) The chief administrator shall hold at least an earned baccalaureate degree from an accredited or licensed college and shall have sufficient experience to qualify for the position.

(c) Faculty members.

1. For a course or program licensed by the council prior to January 1, 2014:

- a. Effective until December 31, 2015, faculty members shall possess academic, scholarly, and teaching qualifications similar to those required for faculty in accredited colleges that offer degrees at comparable levels.

- b. Effective beginning on January 1, 2016, faculty members shall meet the requirements established in paragraph (d) of this subsection.

2. For a course or program not licensed by the council prior to January 1, 2014, faculty members shall meet the requirements established in paragraph (d) of this subsection when the course or program is licensed.

(d) Faculty member qualifications.

1. Each degree possessed by a faculty member shall be from an institution accredited by an accrediting agency recognized by the U.S. Department of Education or the Council for Higher Education Accreditation.

2. To teach a certificate or diploma course, a faculty member shall have:
  - a. A bachelor's degree; or
  - b. A high school diploma or GED along with one (1) or more of the following:
    - (i) Completed a training or degree program in the applicable occupational area;
    - (ii) Demonstrated outstanding professional experience;
    - (iii) Demonstrated outstanding professional contributions to the discipline being taught; or
    - (iv) Professional licensure or certification in the field.
3. To teach an associate degree course not designed for transfer to a baccalaureate degree, a faculty member shall hold:
  - a. A bachelor's degree in the discipline being taught; or
  - b. An associate's degree in the discipline being taught along with one (1) or more of the following:
    - (i) Demonstrated outstanding professional experience;
    - (ii) Demonstrated outstanding professional contributions to the discipline being taught; or
    - (iii) Professional licensure or certification in the field.
4. To teach a general education course, a faculty member shall hold:
  - a. A master's degree in the discipline being taught; or
  - b. A master's degree with a minimum of eighteen (18) graduate semester hours in the discipline being taught.
5. To teach a baccalaureate course or an associate course designed for transfer to a baccalaureate degree, a faculty member shall hold:
  - a. A master's degree in the discipline being taught;
  - b. A master's degree with a minimum of eighteen (18) graduate semester hours in the discipline being taught; or
  - c. A baccalaureate degree in the discipline being taught along with one (1) or more of the following:
    - (i) Demonstrated outstanding professional experience;
    - (ii) Demonstrated outstanding professional contributions to the discipline being taught; or
    - (iii) Professional licensure or certification in the field.
6. To teach a graduate course, a faculty member shall hold:
  - a. An earned doctorate or terminal degree in the discipline being taught or in a related discipline; or
  - b. A master's degree in the discipline being taught along with one (1) or more of the following:
    - (i) Demonstrated outstanding professional experience;
    - (ii) Demonstrated outstanding professional contributions to the discipline being taught; or
    - (iii) Professional licensure or certification in the field.
  - (e) There shall be a sufficient number of full-time faculty to ensure continuity and stability of the educational program.
  - (f) Teaching loads of faculty members shall be consistent with recognized educational practices, and shall be appropriate to the field, the variety of courses assigned, class size, and other related factors.
- (6) Facilities and equipment.
  - (a) An instructional program shall be conducted in a facility in accordance with the requirements specified on the application form.
  - (b) Enrollment shall not exceed the design characteristics of the facilities.
  - (c) A college shall have facilities and equipment that are:
    1. Maintained and operated in compliance with the safety and health requirements set forth in local, city, and county ordinances, and federal and state law; and
    2. Adequate and appropriate for instruction in classrooms and laboratories consistent with ac-



crediting and licensing requirements.

(7) Library resources. The library shall to support the programs offered by the college in accordance with this subsection.

(a) A college, through ownership or formal agreements, shall provide and support student and faculty access to adequate library collections, and to other learning and information resources where courses and programs are offered. Library resources shall be appropriate to the degree level offered by the college, and shall be sufficient to support all educational, research, and public service programs.

(b) A college that does not provide its own library facilities, but instead relies on another institution, shall demonstrate that it has permission to utilize the resources of the other institution, by providing a copy of the written agreement to the president with the license application, and prior to the offering of any courses.

(c) A college that is dependent on another college or library for library resources shall make the extent of the dependence and the details of the agreements clear both to the president and to students and faculty.

(d) Library expenditures, expressed as a percentage of the total educational and general budget, shall be consistent with the percentage of library expenditures commonly observed in accredited colleges of similar types.

(e) Library staff shall be qualified as required for accredited colleges of similar types.

(f) Sufficient seating and work space for a reasonable proportion of the faculty and students to be accommodated at one (1) time shall be provided as observed in accredited colleges of similar types.

(g) The library shall provide a safe and secure physical and virtual environment conducive to study and research.

(8) Curriculum. Earned degrees awarded by a college shall be bona fide academic degrees and the courses offered in degree programs shall be of collegiate quality as determined by the president using the criteria established in this section.

(a)1. Except as provided in subparagraph 2. of this paragraph, a course offered in a degree program shall be consistent with a course that is generally transferable for credit among accredited colleges where the program is at a corresponding degree level, or for credit toward the baccalaureate degree if a program is at the associate degree level.

2. A course may be offered that is not transferable based on the uniqueness of a program.

(b) A college shall require a minimum of:

1. Sixty (60) student credit hours for an associate degree;

2. 120 student credit hours for a baccalaureate degree; or

3. Thirty (30) student credit hours for a post-baccalaureate, graduate, or first professional degree.

(c) A minimum of twenty-five (25) percent of the student credit hours required for a degree shall be earned through instruction offered by:

1. The college awarding the degree; or

2. A college that is:

a. A party to a joint, cooperative, or consortia agreement; and

b. Either:

(i) Licensed by the Council on Postsecondary Education; or

(ii) A Kentucky state-supported postsecondary education institution.

(d) A majority of the student credit hours required for a graduate degree may be met through a joint, cooperative, or consortia agreement in which the instruction is offered by a college that is:

1. A party to the agreement; and

2. Either:

- a. Licensed by the Council on Postsecondary Education; or
- b. A Kentucky state-supported postsecondary education institution.

(e) A college shall have a systematic program of curriculum revision in order to maintain the general standards of accredited colleges with similar programs.

(f) A college shall have a program of evaluation that includes a periodic assessment of the changes in student achievement.

(9) General education.

(a) A minimum of fifteen (15) student credit hours for associate degree programs and thirty (30) student credit hours for baccalaureate degree programs shall be earned in general education, including science, mathematics, social and behavioral sciences, and humanities. A college which offers an interdisciplinary general education program, a block-type program, or other unique general education program shall be considered to be in compliance with the general education requirement if the president determines that the program content and distribution are related to the degree and institutional purposes.

(b) A new college, or any existing college which initiates a new associate degree or baccalaureate degree program or major, or other concentration or specialty, after March 5, 2010, shall comply fully from the outset with the general education requirements.

(10) Program supervision and instructional support. Regardless of location, type of program, method of instruction, or other characteristics, an instructional program for which degree credit is awarded shall include:

- (a) Adequate supervision by the college; and
- (b) Instructional support necessary to maintain the program.

(11) Truth in advertising. A college shall meet the requirements established in this subsection regarding advertising.

(a) Advertisements, announcements, or promotional material of any kind which are distributed in Kentucky shall not contain any statements that are untrue, deceptive, or misleading with respect to the college, its personnel, its services, or the content, accreditation status, or transferability of its courses or degree programs.

(b) Advertisements, announcements, or other materials produced by or on behalf of the college shall not indicate that the college is "supervised", "recommended", "endorsed", or "accredited" by the Commonwealth of Kentucky, by the Council on Postsecondary Education, or by any other state agency. A statement using the name of the Council on Postsecondary Education, if any, shall be in exactly the following form, based on which statement is applicable to the college:

1. "(Name of College) is licensed by the Kentucky Council on Postsecondary Education."; or
2. "(Name of College) has a religious exemption from the Kentucky Council on Postsecondary Education to operate or solicit in Kentucky."

(12) Recruitment and enrollment procedures. A college shall furnish the following to each student prior to enrollment:

- (a) The college's policies on grades, attendance, and conduct;
- (b) A description of the instructional program;
- (c) A detailed schedule of all charges, rentals, and deposits;
- (d) The schedule of refunds of all charges, rentals, and deposits; and
- (e) The student enrollment application, contract, or agreement.

(13) Student affairs.

(a) Students admitted to the college shall have completed a state-approved secondary school program or its equivalent unless dually enrolled in high school.

(b) The college shall provide academic counseling by faculty or staff to each student when admitted and throughout the program.

(c) The college shall make assistance and counseling available to each student who completes

a technical or vocational program for the purpose of assisting the student with an appropriate job placement or with transfer.

(d) The college shall maintain sufficient records for each student to provide an understanding of his or her background, to record progress through the instructional program, and for reference purposes. By January 1, 2022, the college shall maintain all student records in an electronic format that is searchable and readily transferable consistent with industry standards. For a college not licensed by the Council prior to January 1, 2020, the college shall meet this requirement when the college is licensed.

(e) Administrative officers of the college shall be knowledgeable of the federal and state laws and administrative regulations concerning the disclosure of student information and shall comply with those laws and administrative regulations.

(f) A college shall make provision for the maintenance of student records if the college ceases operations in accordance with KRS 164.020(23). The location of student records shall be approved in advance by the president.

(14) College policies.

(a) The college shall maintain records in an orderly manner and make them available for inspection by the president or his or her designated representative.

(b) A catalog shall be published and distributed at least every two (2) years and shall include general information, administrative policies, and academic policies of the college including:

1. General information:

a. Official name and address of the college, name of the chief administrative officers, members of the governing body, and names of principal owners;

b. The college's calendar for the period covered by the catalog including beginning and ending dates of each term or semester, registration and examination dates, legal holidays, and other important dates;

c. Names of faculty, including relevant education and experience; and

d. Full disclosure of the philosophy and purpose of the college;

2. Administrative policies:

a. Admissions policies and procedures, applicable to the various programs, including policies regarding granting of credit for previous education;

b. Policies and procedures regarding student conduct and behavior and the process for dealing with cases which culminate in probation or dismissal;

c. Schedules for all tuition and instructional charges, and refund schedules for the tuition and instructional charges;

d. Statement of financial aid available to students; and

e. Procedures for obtaining transcripts in a timely fashion and at reasonable cost; and

3. Academic policies, including:

a. Policy on class attendance;

b. Description of grading system;

c. Description of the degree, diploma, certificate, or other programs, including the course requirements and the time normally required to complete each degree, diploma, certificate, or other program; and

d. Full description of the nature and objectives of all degrees offered.

(c) Refund policy on tuition and other instructional charges. The refund policy shall meet the minimum requirements established in this paragraph.

1. If tuition and other instructional charges are collected in advance of enrollment and the student fails to enroll, the college shall retain not more than \$100, or not more than ten (10) percent of the tuition and other instructional charges for a term or semester, whichever is less.

2.a. Except as provided in clause b. of this subparagraph, tuition and other instructional charg-

es shall be charged by the enrollment period, and the student shall not be obligated for tuition or other instructional charges relating to an enrollment period that had not begun when the student withdrew.

b. The president may approve program tuition for a specific program at a college if a student may only enroll at the beginning of the program sequence and shall remain in phase. If program tuition is approved, the college shall refund tuition and other instructional charges in accordance with its published refund policy that considers both the coursework completed prior to withdrawal and the coursework that remains.

3. If a student withdraws from the college, or if a student fails to attend classes for a period of thirty (30) days during which classes are in session, the college shall officially withdraw the student from the college and shall refund an amount reasonably related to the period for which the student is not enrolled and shall refund 100 percent of all other tuition and other fees collected by the college for subsequent enrollment or registration periods unless the student is enrolled in a program for which program tuition is charged as specified in subparagraph 2. of this paragraph.

a. After completion of fifty (50) percent of the enrollment period, the college shall not be required to make refunds of tuition or other fees for that period.

b. In all other cases, including illness or accident, the college shall make a refund settlement.

c. Refunds shall be made within thirty (30) days after notification of withdrawal has been received by the college.

4. If a college is accredited by an accrediting agency which has a specific refund policy which is more favorable to the student, that policy shall be followed.

5. An out-of-state college shall refund in accordance with this section unless its policy is more favorable to the student, in which case the latter shall be followed.

#### Section 9. Failure to Apply for a License.

(1) If a college which is subject to this administrative regulation fails to apply for a license, the president shall notify the college by registered mail of the requirement to obtain a license.

(2) If a license application is not then received within sixty (60) days of notification by the president, the president shall require the chief administrative officer to appear for a hearing as provided in Section 14 of this administrative regulation.

(3) If the chief administrative officer does not appear for the hearing, the president shall refer the case to the appropriate county attorney for enforcement.

#### Section 10. Annual Maintenance of a College's License and Renewal of a College's License.

(1) A college shall submit an Application for Annual Maintenance of License or for Renewal of License Pursuant to 13 KAR 1:020 to the president by April 1 of each year.

(a) In an odd numbered year, the application shall contain the following information:

1. Financial Information:

a. A statement from the Kentucky Higher Education Assistance Authority related to programs administered by that agency and from the United States Department of Education related to programs administered by that department that the college is in good standing;

b. A letter prepared by an independent certified public accountant confirming that the college is in compliance with Section 8(3) of this administrative regulation;

c. Financial statement including assets and liabilities and an audit report prepared by an independent certified public accountant within the last year.

2. Institutional information:

a. Name and address of college;

b. Chief executive officer's name, title, address, phone number, fax number, and email address;

- c. Institutional liaison's name, title, address, phone number, fax number, and email address;
- d. A current list of the college's agents;
- e. Copies of articles of incorporation, charter, constitution, and by-laws if there have been any changes to the documents within the last two (2) years; and
- f. A copy of each articulation agreement the college has with a Kentucky licensed college or state-supported institution entered into or changed within the last two (2) years;

3. Accreditation status:

- a. If the college is accredited by an accrediting agency, verification of the college's accreditation status and documentation of any notice of disciplinary action, warning, or probation from any state, federal, or accrediting agency within the past two (2) years; or
- b. If an in-state college is not accredited by an accrediting agency, a statement indicating its intention to receive accreditation and its timeline for attainment.

4. Tuition for the current enrollment period per credit hour, specifying semester hour, quarter hour, or other basis, and per full-time student;

5. A copy of the college's current catalog;

6. For an in-state college, a list of all licensed instructional sites away from the main campus of the in-state college for the purpose of offering courses for college credit which comprise at least fifty (50) percent of the course requirements for a degree program, including the name and title of the primary contact of the off-campus site, address, phone number, and program or programs by CIP code offered at the site, or course or courses if not offering an entire degree program at the site;

7. Program information:

- a. Changes, if any, in program requirements for each program within the last two (2) years including admission requirements, courses required, and the number of credit hours required for the program or major;
- b. Results of the most recent program evaluation;
- c. Methods used to assess student achievement;
- d. Results of the most recent assessment of student achievement; and
- e. A list of programs withdrawn within the last two (2) years in which there are no longer students enrolled including program title, degree level, CIP code, and address where the program is no longer being offered;

8. Faculty information: Faculty credentials for each program faculty member employed within the last two (2) years;

9. Facilities information: Verification of compliance with all applicable local, state, and federal safety and fire codes; and

10. Library information regarding the library collection and budget, and lease, contract, or letter of agreement authorizing use of another library collection, if any.

(b) In an even numbered year, the application shall only contain the information required by paragraphs (a)1.b. and d., and (a)2.a., b., and c., of this subsection. An institution shall provide any other information listed in paragraph (a) of this subsection upon request of the council.

(2) The president may conduct, or may have conducted, a site visit as part of the annual maintenance of a license or renewal of a license process in accordance with Section 4 of this administrative regulation.

(3) Within ninety (90) working days of the submission of a complete and accurate Application for Annual Maintenance of License or for Renewal of License Pursuant to 13 KAR 1:020 if a site visit is not conducted, or within ninety (90) working days of the completion of a site visit, the president shall:

(a) Notify the college of any deficiencies which shall be corrected before the college's license is maintained or renewed;

(b) Deny maintenance or renewal of the college's license;  
(c) Maintain the college's license without changing the college's license renewal date;  
(d) Renew the college's license to June 30 of the next year; or  
(e) Issue a conditional license in accordance with subsection (4) of this section if the college has:

1. Not met all of the standards for licensure when the application is filed; and  
2. Provided a written business plan to the president demonstrating it will meet the standards for licensure within a period not to exceed one (1) year.

(4) A conditional license shall not exceed a period of one (1) year and shall include the conditions the college shall meet in order for the college to progress toward and eventually meet the standards for licensure, including when the college shall report progress to the president and when the college shall be required to have satisfied all the conditions.

(a) The college's failure to satisfy the conditions within the specified timeframe shall:

1. Result in automatic revocation of the conditional license; or  
2. Result in an extension of the conditional license based on a determination by the president that the college is making progress in satisfying the conditions in response to the college's written request for an extension with supporting justification.

(b) If the college satisfies all the conditions with the timeframe specified, the president shall re-new the license in accordance with subsection (3)(d) of this section.

(5) A college's failure to submit a complete and accurate Application for Annual Maintenance of License or for Renewal of License Pursuant to 13 KAR 1:020 shall be grounds for denial of a license, or suspension or revocation of an existing license, and the president shall notify the college by registered mail, return receipt, of the denial, suspension, or revocation of the college's license.

#### Section 11. Required Data Submission.

(1) A licensed college shall submit student attendance and performance data in an electronic format. The required data fields, the format and method of submission, and the dates for submission shall be in accordance with the Licensure Compliance Reporting Manual.

(2) The president may conduct, or may have conducted, a site visit as part of the data submission process in accordance with Section 4 of this administrative regulation.

(3) A college's failure to submit complete, timely, and accurate data shall be sufficient grounds for denial of a license, or suspension or revocation of an existing license, and the president shall notify the college by registered mail, return receipt, of the denial, suspension, or revocation of the college's license.

#### Section 12. License Expiration.

(1) A license shall automatically expire if the college ceases operating or soliciting.

(2) A college that ceases operating or soliciting shall comply with Section 8(13)(f) of this administrative regulation and KRS 164.020(23).

Section 13. Consumer Complaint Procedure. A person with a complaint or grievance involving misrepresentation against a college licensed under this administrative regulation shall make a reasonable effort to resolve the complaint or grievance directly with the college. If a mutually satisfactory solution cannot be reached, the procedures established in this section shall be followed.

(1) A person shall submit a written complaint to the president which contains evidence relevant to the complaint and documentation that a reasonable effort was made to resolve the complaint directly with the college.

(2) The president shall require an institution to file a written response setting forth the relevant facts concerning the consumer complaint, including a statement on the current status of the com-

plaint, and any resolution of the complaint.

(3) The president shall review the facts as presented and may intervene to bring the matter to a satisfactory conclusion through facilitation, but the facilitation shall not include legal action on behalf of any party.

#### Section 14. Hearings and Appeals.

(1) The president shall, for cause, require the chief administrative officer, or other officers, of a college to appear for a hearing within thirty (30) working days of notice in order to determine the facts if the president has determined that:

(a) There is sufficient cause for a suspension, a revocation of a license, or placement of a college's license in a probationary status, based upon the college's failure to comply with this administrative regulation; or

(b) A college which is subject to this administrative regulation fails to apply for a license..

(2) The officer, or other officers, of the college may be accompanied at the hearing by counsel of their own choosing and at their expense.

(3) Within thirty (30) working days after a hearing is held or if the college fails to appear for the hearing, the president shall reach a determination and shall issue findings, in writing, to the council and to the chief executive officer of the college.

(4) If it is determined that the public interest requires that sanctions be imposed, the president shall:

(a) Impose one (1) of the following sanctions:

1. Place the college's license in a probationary status for a designated period not to exceed one (1) year while deficiencies are being corrected;

2. Suspend the college's license for a period not to exceed one (1) year; or

3. Revoke the college's license; or

(b) Refer the case to other officials for appropriate legal action.

(5) A college which is sanctioned, whether the sanction is probation, suspension of license, or revocation of license, shall comply with the terms of the sanction.

(6) A college may appeal the actions of the president regarding the denial of issuance of a license or license renewal or the imposition of sanctions according to the procedures established in this subsection.

(a) A college shall notify the president of the intent to appeal an action within fourteen (14) days of the receipt of the letter notifying the college of the action taken.

(b) The president shall request that the Office of Administrative Hearings appoint a hearing officer who shall conduct an administrative hearing consistent with the provisions of KRS 13B.005-13B.170.

(c) The appeal shall be presented in writing no later than sixty (60) days following the receipt of notification of intent to appeal. The appeal shall be considered on the written record alone.

(d) The appeals officer shall review findings of fact, consider testimony, draw conclusions, and formulate a recommendation consistent with the facts and this administrative regulation.

(e) Upon completion, the report of the appeals officer shall be forwarded to the college and to the president of the Council on Postsecondary Education.

(f) Within thirty (30) working days of receiving the report of the appeals officer, the president shall take one (1) of the following actions:

1. Issue a license;

2. Renew the license;

3. Impose one (1) of the sanctions authorized in this section; or

4. Refer the case to other officials for appropriate action.

## Section 15. License Fees.

- (1) The president shall assess a fee in accordance with the Kentucky Licensure Fee Schedule.
- (2) Failure to pay a fee shall be sufficient grounds for denial of a license, or suspension or revocation of an existing license.

## Section 16. Incorporation by Reference.

- (1) The following material is incorporated by reference:
  - (a) "Application for Licensure as an In-State, Non-Public Institution to Operate in the Commonwealth of Kentucky Pursuant to 13 KAR 1:020", June 2013;
  - (b) "Application for Licensure as an Out-of-State Institution to Operate in the Commonwealth of Kentucky Pursuant to 13 KAR 1:020", June 2013;
  - (c) "Supplementary Application for Change of Name of Institution Pursuant to 13 KAR 1:020", June 2013;
  - (d) "Supplementary Application for Change of Location of Principal Location of a College or Location of a Licensed Instructional Site in Kentucky Pursuant to 13 KAR 1:020", June 2013;
  - (e) "Supplementary Application for Change of Ownership or Governance Pursuant to 13 KAR 1:020", June 2013;
  - (f) "Supplementary Application to Operate as an Out-of-State Institution in the Commonwealth of Kentucky Pursuant to 13 KAR 1:020", June 2013;
  - (g) "Supplementary Application to Operate as an In-State Nonpublic Institution in the Commonwealth of Kentucky Pursuant to 13 KAR 1:020", July 2019;
  - (h) "Supplementary Application for Administrative Site, Recruitment Office, or Advising Center Pursuant to 13 KAR 1:020", June 2013;
  - (i) "Supplementary Application for Notification of Change in Accreditation or Licensure Status Pursuant to 13 KAR 1:020", June 2013;
  - (j) "Application for Annual Maintenance of License or for Renewal of License Pursuant to 13 KAR 1:020", June 2013;
  - (k) "Licensure Compliance Reporting Manual", September 8, 2009;
  - (l) "Kentucky Licensure Fee Schedule", June 2013; and
  - (m) "Application for Religious In-State College Letter of Exemption per KRS 164.947(2)", September 2012.
- (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Council on Postsecondary Education, 1024 Capital Center Drive, Suite 320, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. (17 Ky.R. 2552; Am. 2970; eff. 5-3-1991; 36 Ky.R. 826, 1232, 1878, eff. 3-5-2010; 2347; eff. 9-3-2010; 39 Ky.R. 1043; 1365; eff. 2-1-13; TAm, eff. 3-13-2013; 40 Ky.R. 334; 854; 1004; eff. 12-6-2013; 46 Ky.R. 550, 1430, 1791; eff. 1-3-2020.)